

## REMARKS

Reconsideration of this application, as amended, is requested. Claims 1-3 and 6-16 remain in the application. Claim 1 has been amended to include the limitations of claims 4 and 5. Claims 4 and 5 have been cancelled. The amendments to claim 1 have support in at least paragraphs 0023 and 0028-0029 and FIG. 3. Accordingly, the amendments to claim 1 do not constitute new matter. Claim 10 has been amended to clarify that the images are produced during a surgical procedure. This clarification in claim 10 has support in the original specification, including original paragraphs 0009, 0014, and 0027. Accordingly, the amendments to claim 10 do not constitute new matter. Furthermore, new claims 12-16 have been added. New claims 12-13 have support in at least original paragraphs 0009 and 0027. Support for new claim 14 have support in at least in original paragraph 0025 and new claims 15-16 have support in at least paragraphs 0028 and 0029. Therefore, it is respectfully submitted that no new matter has been added by these claim amendments.

Claims 1-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US 2002/0149628 hereinafter referred to as "Smith") in view Kirsten (U.S. Patent 5,724,475) as set forth on pages 2-7 of the office action dated September 25, 2007.

Smith is directed to a system for generating a graphical representation representing at least a portion of an observable three-dimensional space. Referring to FIG. 1, the system of Smith includes a microscope, a microscope focus controller, a platform controller, a micromanipulator controller and a separate computer. A user can select a location on the graphical representation to direct a moveable item to a three-

dimensional location within the space corresponding to the location selected by the user.

Kirsten is directed to a compressed digital video reload and playback system, especially suited for multi-camera industrial surveillance.

Claim 1 has been amended to include the limitations of claim 4 and 5. Amended claim 1 now is directed to an optical observation apparatus including “an optical system (2) which produces an image of the object (1) being observed, and a video device (7) for recording the image and for producing an image signal representative of the image, characterised in that the video device (7) includes a first memory (71) for temporary storage of the image signal, a replaceable second memory (73) in data communication (77) with the first memory (71), and a control device (75) in control communication (76B, 76C) with both memories (71, 73) for controlling the storage procedure and data transfer from the first to the second memory, wherein the control device is adapted for controlling the storage procedure for the first memory in such a way that the image signal is stored over a predetermined period of time and an oldest image signal is continuously overwritten by a fresh image signal, and that transfer of at least a portion of content of the first memory (71) to the second memory (73) takes place as a reaction to a trigger signal; and a third memory (80) which is in data communication (81, 82) both with the first memory (71) and also with the second memory (73) and in signal communication (83) with the control device (75), wherein the at least a portion of content of the first memory is transferred to the third memory as a reaction to the generated trigger signal while the second memory is being replaced” (Emphasis added).

In the office action, the Examiner asserted “[r]egarding claims 4-5, the Smith apparatus, now incorporating the Kirsten storage procedure including continuous overwriting, discloses that the second memory (73) is adapted to be replaceable (Smith: Paragraph [0038], lines 1-6), as in the claims”. While original claim 4 was directed to a replaceable memory, original claim 5 recited a third memory in data communication with the first and second memories. In the rejection, the Examiner makes no reference to the third memory.

The optical observation device of claim 1 now includes “a third memory (80) which is in data communication (81, 82) both with the first memory (71) and also with the second memory (73) and in signal communication (83) with the control device (75), wherein the at least a portion of content of the first memory is transferred to the third memory as a reaction to the generated trigger signal while the second memory is being replaced”. The third memory is employed to take over the function of the second memory during replacement of the actual second storage device or memory. Hence, even in times when the second memory is offline, there is still the possibility to transfer image data from the first memory to the third memory which temporarily acts as the second memory. Upon replacement of the second memory, the images will be transferred from the third memory to the second memory. Therefore, recording images will not be disturbed by replacing the second memory (see paragraphs 0028 and 0029 of the present application). Neither Smith nor Kirsten discloses a third memory for storing images during the replacement of a second memory. Therefore, it is respectfully submitted amended claim 1 is not rendered obvious by Smith or Kirsten alone or in any combination.

Claims 2-3 and 6-9, depend directly or indirectly from amended claim 1, and are patentable for at least the reasons stated above with respect to amended claim 1.

Amended claim 10 is directed to an operation microscope including, inter alia, “an optical system which produces an image of the object being observed during a surgical operation, and a video device for recording the image and for producing an image signal representative of the image, characterised in that the video device includes a first memory for temporary storage of the image signal, a second memory in data communication with the first memory, and a control device in control communication with both memories for controlling the storage procedure and data transfer from the first to the second memory, wherein the control device is adapted for controlling the storage procedure for the first memory in such a way that the image signal is stored over a predetermined period of time and an oldest image signal is continuously overwritten by a fresh image signal, and that transfer of at least a portion of content of the first memory to the second memory takes place as a reaction to a trigger signal generated in response to an observable situation of the surgical operation, wherein the optical system and video device are disposed in an optical, longitudinal axis” (Emphasis added). Neither Smith or Kirsten disclose transferring content from a first memory to a second memory “as a reaction to a trigger signal generated in response to an observable situation of the surgical operation”. Smith does not disclose a trigger signal and Kirsten discloses a security surveillance system where “trigger events such as door switch closure or motion detected by infrared or video motion detectors” cause the rate of image recording to accelerate. Furthermore, it is

respectfully submitted that one employing the system of Smith would not look to security surveillance systems for enhancing the operation of a microscope. It is respectfully submitted that amended claim 10 is not rendered obvious by Smith in view of Kirsten and is believed to be in condition for allowance.

Similarly, new claim 12 is directed to a “method for recording images of an object in an optical observation apparatus during a surgical operation, the method comprising: producing an image of the object being observed during the surgical operation; recording the image and producing an image signal representative of the image; temporarily storing the image signal in a first memory and controlling the storage procedure for the first memory in such a way that the image signal is stored over a predetermined period of time and an oldest image signal is continuously overwritten by a fresh image signal; generating a trigger signal in response to an observable situation of the surgical operation; and transferring at least a portion of content of the first memory to the second memory as a reaction to the generated trigger signal, wherein the portion of content of the first memory includes image signals representative of the observable situation”. For at least the reason stated above in relation to amended claim 10, it is respectfully submitted new claim 12 and its with dependent claims 13-16 are not rendered obvious by Smith considered in view of Kirsten. Accordingly, new claim 12-16 are believed to be in condition for allowance.

Claim 11 is directed to an optical observation apparatus including, inter alia, “a stereoscopic optical system which produces two stereoscopic partial images of the object being observed, the optical system for each stereoscopic partial image includes its own observation channel, wherein each observation channel includes a

video device for recording the stereoscopic partial image and for producing an image signal representative of the stereoscopic partial image, characterised in that each video device includes a first memory for temporary storage of the image signal, a second memory in data communication with the first memory, and a control device in control communication with both memories for controlling the storage procedure and data transfer from the first to the second memory, wherein the control device is adapted for controlling the storage procedure for the first memory in such a way that the image signal is stored over a predetermined period of time and an oldest image signal is continuously overwritten by a fresh image signal, and that transfer of at least a portion of content of the first memory to the second memory takes place as a reaction to a trigger signal". In rejecting claim 11, the Examiner points to paragraph 0006 of Smith for disclosing stereoscopic images. This is the only mention of stereoscopic images in all of Smith. The Examiner also points to paragraph 0213 of Smith for disclosing "the optical system for each stereoscopic partial image includes its own observation channel, wherein each observation channel includes a video device for recording the stereoscopic partial image and for producing an image signal representative of the stereoscopic partial image". However, paragraph 0213 of Smith merely discloses contrast and brightness tools of the image display of the system of Smith. Nowhere does Smith disclose or suggest an apparatus having two observation channels one for each partial stereoscopic image. Furthermore, Smith does not disclose or suggest that each observation channel have first and second memories. Therefore, it is respectfully submitted that claim 11 is not rendered obvious by Smith in view of Kirsten and is believed to be in condition for allowance.

In view of the preceding amendment and remarks, it is submitted that the claims remaining in the application are directed to patentable subject matter, and allowance is solicited. The Examiner is urged to contact applicant's attorney at the number below if the Examiner believes a telephone or personal interview would facilitate the prosecution of this application.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gerald E. Hespos".

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